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7 UNITED STATES DISTRICT COURT

8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 DAMON CHARLES WILLIAMS,

10 Plaintiff,

11 v.

12 PRK FUNDING SERVICES, INC.; KING  
13 COUNTY; JEFFREY PYATT; MICHAEL  
14 JAMES WARREN; ERIC S. CARLSON;  
15 JOHNATHAN DREITZLER; KATHRYN  
16 HINDS; RONALD CAMPBELL; MELVIN  
17 BRITT JR.; DANIEL JENSEN; MICHAEL  
18 LAWRENCE THAYER; RICCI FRISK;  
19 DONALD R. CAPP; KIRILL GAVRYLYUK;  
20 CHANDRIKA SHANKARNARAYAN;  
21 JOANNE C. VAN SICKLE RICHARD  
22 BESELIN; PRIVATE ASSET  
23 MANAGEMENT, INC.; DALLAS WILLIAM  
24 JOLLEY JR; MAKENZIE BROWN; CITY OF  
25 SEATTLE; STATE OF WASHINGTON  
26 DEPARTMENT OF REVENUE; PYATT  
BROADMARK MANAGEMENT, LLC; PLG  
FUND I, LLC; WINDERMERE SERVICES  
COMPANY; WELLS FARGO; PRIVATE  
LENDING GROUP, LLC; NORTHWEST  
TRUSTEE SERVICES, INC.; FIDELITY  
NATIONAL TITLE COMPANY OF  
WASHINGTON SERVICES, INC.; and Does  
1-100, individually, jointly and severally,

Defendants.

NO. 2:18-cv-00048 RSM

DEFENDANTS KATHYRN HIND'S  
AND WINDERMERE SERVICES  
COMPANY'S ANSWER TO  
PLAINTIFF'S COMPLAINT

1 COME NOW Defendants Kathryn Hinds (“Hinds”) and Windermere Services Company  
2 (“Windermere”), (together the “Defendants”), by and through their attorneys Chris M.  
3 MacMillan, and Demco Law Firm, P.S., and hereby answer the Plaintiff’s Complaint.

4 “Insufficient knowledge” as used herein shall mean “Responding Defendants have  
5 insufficient knowledge and information upon which to form an answer and therefore deny the  
6 allegation.”

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8 1. Paragraph 1 of Plaintiff’s Complaint requires no response from Defendants. To  
9 the extent a response is required; Defendants have insufficient knowledge.

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11 **I. PARTIES**

- 12 2. Insufficient knowledge.  
13 3. Insufficient knowledge.  
14 4. Insufficient knowledge.  
15 5. Insufficient knowledge.  
16 6. Insufficient knowledge.  
17 7. Insufficient knowledge.  
18 8. Insufficient knowledge.  
19 9. Insufficient knowledge.  
20 10. Insufficient knowledge.  
21 11. Insufficient knowledge.  
22 12. Insufficient knowledge.  
23 13. Insufficient knowledge.  
24 14. Insufficient knowledge.  
25 15. Insufficient knowledge.  
26 16. Insufficient knowledge.

- 1 17. Insufficient knowledge.  
2 18. Insufficient knowledge.  
3 19. Deny.  
4 20. Insufficient knowledge.  
5 21. Insufficient knowledge.  
6 22. Insufficient knowledge.  
7 23. Insufficient knowledge.  
8 24. Insufficient knowledge.  
9 25. Insufficient knowledge.  
10 26. Insufficient knowledge.  
11 27. Insufficient knowledge.  
12 28. Insufficient knowledge.  
13 29. Insufficient knowledge.  
14 30. Insufficient knowledge.  
15 31. Insufficient knowledge.

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17 **II. SPECIFICS**

- 18 32. Deny.  
19 33. Deny.  
20 34. Deny.  
21 35. Deny.  
22 36. Deny.

23 **COUNTERCLAIMANT'S PRELIMINARY STATEMENT**

- 24 37. Deny.  
25 38. Deny.  
26 39. Deny.

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1 **JEFFREY BYRON PYATT**

2 64. Insufficient knowledge.

3 65. Insufficient knowledge.

4 **III. ACTION FOR TRESPASS**

5 66. Paragraphs 66 through 142 of Plaintiff's Complaint require no response from  
6 Defendants. To the extent a response is required; Defendants have insufficient knowledge.

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8 **SIXTH COUNT OF ACTION FOR TRESPASS AGAINST WINDERMERE  
SERVICES COMPANY AND KATHRYN HINDS**

9 143. Defendants incorporate and re-state their responses to the preceding paragraphs.

10 144. Deny.

11 145. Deny.

12 146. Deny.

13 147. Deny.

14 148. Deny.

15 149. Deny.

16 150. Deny.

17 151. Deny.

18 152. Insufficient knowledge.

19 153. Deny.

20 154. Deny.

21 155. Deny.

22 156. Deny.

23 157. Deny.

24 158. Deny.

25 159. Deny.

26 160. Deny.

1 161. Deny.

2 162. Deny.

3 163. Deny.

4 164. Deny.

5 165. Paragraphs 165 through 310 of Plaintiff's Complaint require no response from  
6 Defendants. To the extent a response is required; Defendants have insufficient knowledge.

7  
8 **IV. ACTION FOR TRESPASS ON THE CASE VACARIOUS LIABILITY**

9 311. Defendants incorporate and re-state their responses to the preceding paragraphs.

10 312. Insufficient knowledge.

11 313. Deny.

12 314. Deny.

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14 **V. LAW OF THE CASE**

15 315. Paragraph 315 of Plaintiff's Complaint requires no response from Defendants. To  
16 the extent a response is required; Defendants have insufficient knowledge.

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18 **VI. REQUEST FOR RELIEF**

19 316. Defendants deny that Plaintiff is entitled to any of the relief requested in  
20 paragraphs 316 through 330.

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22 **VII. AFFIRMATIVE DEFENSES**

23 1. Plaintiff's Complaint fails to state a claim upon which relief may be granted;

24 2. Plaintiff's claims are barred by the applicable statutes of limitation;

25 3. Plaintiff failed to plead fraud with particularity;

26 4. Insufficiency of service of process;

- 1           5.     Lack of personal jurisdiction;
- 2           6.     This court lacks subject-matter jurisdiction;
- 3           7.     Plaintiff's Complaint is barred by the doctrine of equitable estoppel;
- 4           8.     Plaintiff failed to mitigate his damages (if any);
- 5           9.     Plaintiff's claims are barred by the doctrines of waiver, unclean hands, estoppel
- 6 and unjust enrichment;
- 7           10.    The Defendants did not violate any statutory or fiduciary duty imposed on brokers
- 8 under the laws of the State of Washington. Because Hinds did not breach any duty owed to
- 9 Plaintiff, Defendants are not liable to Plaintiff;
- 10          11.    Defendants did not make any misrepresentation regarding any material fact
- 11 involved in the subject real estate transaction described in Plaintiff's Complaint. Even if there
- 12 was a misrepresentation, Plaintiff did not justifiably rely on any alleged misrepresentation;
- 13          12.    Defendants acted in good faith;
- 14          13.    Plaintiff's alleged damages, if any, were caused in whole or in part by his own
- 15 comparative fault and/or the fault of others;
- 16          14.    Plaintiff's claims are barred by his own contributory negligence;
- 17          15.    Plaintiff's claims are barred by RCW 18.86.030 *et seq.*;
- 18          16.    Defendants were not the proximate or legal cause of Plaintiff's alleged injury;
- 19          17.    Plaintiff has named an improper party; and
- 20          18.    Defendants fully performed and discharged all duties.

## VIII. RESERVATION OF RIGHTS

23          Defendants reserve the right to assert other defenses and counterclaims as additional facts

24 in this matter are discovered.

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**IX. PRAYER FOR RELIEF**

WHEREFORE the Defendants pray for relief as follows:

1. Judgment in favor of Defendants on all counts;
2. Dismissal of Plaintiff's Complaint with prejudice and without costs;
3. An award of costs, expenses, and attorneys' fees as allowed by case law, statute or equity; and
4. Such other relief as the Court may deem equitable and just.

DATED this 28<sup>h</sup> day of March, 2018.

DEMCO LAW FIRM, P.S.

By   
Chris M. MacMillan, WSBA #50094  
Attorneys for Windermere Services Co. and  
Kathryn Hinds